



Ms. Cynthia L. Johnson, Director
Cash Management Policy & Planning Division
Department of the Treasury
Financial Management Service
Washington, D.C. 20227

December 10, 1997

RE: Electronic Funds Transfer Rules, 31 CFR 208

Dear Ms. Johnson:

Please accept this letter as the Ohio Academy of Nursing Homes ("Academy") comment of the proposed rules regarding electronic funds transfer, 31 CFR 208. The Academy is a statewide trade association representing both nursing homes and residential care facilities in the state of Ohio.

Upon review of the proposed rules, the Academy has concerns regarding the effect that these rules will have upon the elderly population that resides in nursing homes. Though direct deposit appears to create many advantages for most recipients, such as the elimination of mail delays and theft, while saving substantial tax dollars, it can potentially create an unworkable system for nursing home residents; or at best, an added expense to those recipients.

All nursing home residents, by definition are considered disabled (physical or mental) under state and federal laws. Therefore, it is our understanding that this assessment alone would qualify them for the "hardship" exemption based upon their physical disability; and the requirements of direct deposit will not be applicable. But, even with this exemption, a major part of the nursing home residents/recipients have been overlooked. This group is made up of the residents that have the nursing home operator as their Representative Payee. The current regulations, as written, do not grant any hardship exemption for the nursing home operators who are the resident's Representative Payee; and this is the area in which our concerns lie.

It is our understanding that there are only two ways in which a Representative Payee check can be handled in a nursing home under these regulations.

I. *For each resident, an individual bank account must be set up.* In this situation, the resident would be responsible for the monthly banking charges. Since the banking fees are only limited to "reasonable costs and consumer protection standards" the bank could charge between \$5.00 to \$15.00 monthly. This would calculate to be 12-37% of the resident's allowable \$40.00 monthly personal needs allowance. Even though this appears to be a small amount, it would create an extreme hardship on residents with limited funds. Also, consideration must be given to the additional administrative expense to the nursing home operator in maintaining these separate accounts. These administrative costs will then only add to the cost of the nursing homes' operations. It is important to

remember that both the providers and the government are searching for ways to reduce the cost of providing Medicare and Medicaid services to our elderly; not a way to increase these costs.

II. *Checks can be deposited directly into a separate corporate "collective" account.* Under this scenario, there would still be banking charges assessed to the nursing home operators and administrative expenses in maintaining the account, along with the expense of separate records for each individual to insure proper accounting. In essence, the nursing home, as Representative Payee, must then become a bank at an added expense to handle funds that belong to the recipient, not the Payee. These expenses would therefore be passed onto either the beneficiary or the Medicaid/Medicare programs.

The Academy would like to propose the following options that could possibly address these issues:

1. A general exemption for all nursing home residents, including the nursing home as Representative Payee.
2. Upon admission to the nursing home, mandate that the facility become representative payee on all residents' Federal checks. The direct deposit would be made into the residents' personal fund bank account, which is already established. This would insure equality within the nursing home population and would require the facility to be responsible for only one accounting process.
3. Direct deposit with the individual states' Medicaid department. Currently, the nursing homes collect the resident's monthly check and the Medicaid reimbursement payment is credited by that amount. Under this process of the states' receiving the payment directly from the Treasury, the states' Medicaid department would already have the recipients' information in the data banks; and the nursing homes would be eliminated from the process. Not only would this be more efficient in eliminating the "middle man" (i.e.: nursing homes), but it would also meet the intent of the direct deposit regulations and save substantial tax dollars.

IN SUMMARY, though the intent of this legislation was to expedite the disbursement of governmental checks in a safe and more efficient manner, it fails to address both the direct and indirect effect it will have on our nation's nursing home residents, along with the increased costs it will have on the Medicare and Medicaid programs. We would ask that you consider these comments and suggestions as part of the proposed rulemaking on electronic funds transfer, pursuant to 31 CFR 208.

Sincerely,



Brenda J. Graf, LNHA, JD
Executive Director